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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) <i>A01477</i>	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number <i>10/660,186</i>	Filed <i>09/11/2003</i>
		First Named Inventor <i>Ronald Scott Beckley</i>	
		Art Unit <i>1713</i>	Examiner <i>Michael Bernshteyn</i>
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. <i>51,798</i> Registration number _____ <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<div style="text-align: center;"> <i>Carl P. Hemenway</i> _____ Signature <i>Carl P. Hemenway</i> _____ Typed or printed name <i>215- 619- 5242</i> _____ Telephone number <i>July 30, 2007</i> _____ Date </div>	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input type="checkbox"/> Total of _____ forms are submitted.			

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Docket No.: : A01477

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/660,186
Applicant : Ronald Scott Beckley
Filed : 9/11/2003
Title : Michael Addition Compositions

TC/Art Unit : 1713
Examiner : Michael Bernshteyn

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Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 1-6 and 11-24 are pending in this application. The claims as currently pending were presented in Applicant's paper of February 8, 2007.

Summary of Current Status of Claim Rejections

In the Office Action mailed on May 3, 2007, the Examiner rejected claims 1-6, 11-20, and 22-24 under 35 USC §103(a) as being obvious over US 5,959,028 (Irie). In that same Office Action, the Examiner rejected claims 21-22 under 35 USC §103(a) as being obvious over US 5,959,028 (Irie) in view of US 6,521,716 (Leake).

In a response on July 3, 2007, Applicants argued that claims 1-6, 11-20, and 22-24 were not obvious over Irie. Applicants argued (and maintain) that key features of the present claims were not disclosed or suggested by Irie.

In the Advisory Action mailed on 7/16/2007 the Examiner stated,

*"Therefore, it would have been obvious to one having
ordinary skill in the art at the time the invention was made
to employ little or no volatile organic solvent as taught by
Leake in Irie's curable resin composition for coating in*

Appl. No. 10/660,186
Paper dated July 30, 2007
Reasons for Pre-Appeal Brief Request for Review

Docket No. A01477

*order to achieve a viscosity suitable for spray application
(US'716 col. 1, lines 49-54), and thus to arrive at the
subject matter of instant claim 1."*

In the same Advisory Action, the Examiner stated,

*"In response to Applicant's arguments against the
references individually, one cannot show nonobviousness
by attacking references individually where the rejections
are based on combinations of references."*

Impropriety of Rejection of Record

The rejection of record, as stated in the final rejection in the Office Action mailed on 05/03/2007, rejects present claim 1 as being obvious over Irie. That rejection of present claim 1 was based on the Irie reference alone and not on Irie in combination with any other reference.

In the Advisory Action mailed on 07/16/2007, the Examiner argues that present claim 1 is obvious over the combination of Irie and Leake. In that Advisory Action, the Examiner does not make any statement or argument regarding the rejection of present claim 1 over Irie alone (other than to make the general statement that the obviousness rejection "remains in force").

From the content of the Advisory Action, Applicants draw the conclusion that, in the Examiner's view, in order to establish the obviousness of present claim 1, it is necessary to combine the disclosure of Leake with that of Irie. That is, it appears to Applicants from the content of the Advisory Action that, in the view of the Examiner, the disclosure of Irie alone is not sufficient to establish obviousness of present claim 1. Consequently, Applicants respectfully submit that the non-obviousness of present claim 1 over Irie alone has been established.

Because the rejection of record is based on obviousness over Irie alone, Applicants respectfully submit that the rejection of record is improper, and Applicants request that the rejection be withdrawn.

Appl. No. 10/660,186
Paper dated July 30, 2007
Reasons for Pre-Appeal Brief Request for Review

Docket No. A01477

Applicants further submit that all the present claims are not obvious over the combination of Irie and Leake. Applicants summarize the relevant arguments below.

Brief Summary of Arguments: Irie alone

In the Office Action mailed on 05/03/2007, the Examiner affirmed the arguments presented in paragraph 5 of the Office Action mailed on 11/09/2006. In the Office Action of 11/09/2006, the Examiner discusses the limitation of "5% or less by weight non-reactive volatile compounds" (recited in the present claims). The Examiner stated that, while Irie "does not disclose" that limitation, (p. 4), it is the Examiner's position that Irie's curable mixture "would be substantially identical to the instant claimed curable mixture" (p. 5) and that it would therefore have been obvious to employ compositions with that feature in Irie's curable mixture.

Applicants disagree with the Examiner's position. Applicants maintain their argument as previously presented. For example, as Applicants argued in their response of July 03, 2007, Applicants maintain that Irie does not teach or suggest compositions with Michael donor, Michael acceptor, and a level of non-reactive volatile compound lower than 43%. Additionally, Applicants note that the Michael donor and Michael acceptor in Irie's compositions are dissolved or dispersed in solvent. In contrast, the present claims recite level of non-reactive volatile compound of 5% or less, and the contents of the composition of the present invention cannot be dispersed or dissolved, because the amount of non-reactive volatile compound is too small. Thus, both the contents and the physical form of the composition of the present invention are different from those of the compositions disclosed by Irie. Therefore, Applicants submit that the large difference in level of non-reactive volatile compound renders all of the presently pending claims non-obvious over Irie.

Brief Summary of Arguments: Irie in view of Leake

In the Office Action mailed on 05/03/2007, the Examiner also rejected claim 21 as obvious over Irie in view of Leake. In that Office Action, the Examiner stated that Leake discloses a composition that is free of catalyst, and the Examiner stated that it

Appl. No. 10/660,186
Paper dated July 30, 2007
Reasons for Pre-Appeal Brief Request for Review

Docket No. A01478
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JUL 30 2007

would have been obvious to "employ the curing without the need for powerful catalysts as taught by Leake in Irie's curable resin composition" (p. 3).

Applicants disagree, as argued previously in their response of July 3, 2007. Applicants characterized Leake in detail in their paper of April 13, 2006. Leake discloses a composition "curable by Michael reaction" that contains one or both of a "doubly activated" Michael acceptor (col. 3, line 55) and a Michael donor that is "substantially more active" than common Michael donors like acetoacetates, malonates, or amines (col. 8, lines 42-46). Applicants submit that, because Leake's disclosure is limited to certain specific Michael ingredients that are more reactive than normal, it would not be obvious to combine Leake's teachings with those of Irie. Therefore, Applicants submit that it would not be obvious to apply Leake's teachings regarding the amounts of the usual catalyst or the amounts of solvent to the teachings of Irie.

Consequently, Applicants submit that all the presently pending claims, including claim 21, are not obvious over Irie in view of Leake.

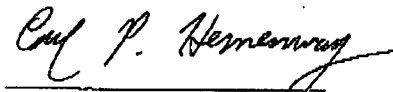
Conclusion

Applicants request that a panel review the rejection and allow the present claims.

Respectfully Submitted,

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Date: July 30, 2007


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